

Chapter 173-900 WAC

ELECTRONIC PRODUCTS RECYCLING PROGRAM

PART I
GENERAL REQUIREMENTS

NEW SECTION

WAC 173-900-010 Purpose. (1) The Washington state legislature has required that a convenient, safe, and environmentally sound system for the collection, transportation, and recycling of covered electronic products (CEPs) be established throughout Washington state. The legislature determined that such a system must encourage the design of electronic products that are less toxic and more recyclable and that the responsibility for this system must be shared among all stakeholders, with manufacturers financing the collection, transportation, and recycling system.

(2) This chapter implements the Electronic Product Recycling Act, chapter 70.95N RCW. This chapter:

(a) Defines the administrative and enforcement responsibilities delegated to the department of ecology; and

(b) Describes the processes and procedures that ecology will use to carry out those responsibilities.

[]

NEW SECTION

WAC 173-900-020 Applicability. This chapter applies to:

- (1) Any manufacturer, as defined in this chapter.
- (2) Any person who collects or transports covered electronic products in Washington state for recycling.
- (3) Any retailer that offers for sale or sells electronic products and covered electronic products in or into Washington state.

[]

NEW SECTION

WAC 173-900-030 Definitions. **"Authority"** means the Washington materials management and financing authority.

"Authorized party" means a manufacturer who submits an individual independent plan or the entity authorized to submit an independent plan for more than one manufacturer.

"Board" means the board of directors of the Washington materials management and financing authority.

"Brand" means a name used to identify an electronic product in the consumer marketplace which attributes the electronic product to the owner of the name as the manufacturer.

"Brand label" typically includes but is not limited to name, logos, trademarks, and other visual elements including fonts, color schemes, shapes, symbols, and icons, which, when set in a special typeface or arranged in a particular way, differentiate electronic products by their manufacturers and brand owners.

"Certified" means certified by signature on a form or other "hard copy," or by electronic signature or certification by a means implemented and approved by ecology, to be sent by mail or faxed or otherwise submitted to ecology.

"Collector" means an entity that is licensed to do business in Washington state and that gathers unwanted covered electronic products from households, small businesses, school districts, small governments, and charities for the purpose of recycling and meets minimum standards that may be developed by ecology.

"Computer" means a machine, used by one user at a time, designed for manipulating data according to a list of instructions known as a program, and are generally known as desktops, laptops, and portable computers. **"Computer"** does not include any of the following:

- (a) A machine capable of supporting two or more work stations simultaneously for computing;
- (b) Computer servers marketed to professional users; or
- (c) Retail store terminals or cash registers, used at customer checkout in the retail industry.

"Contract for services" means an instrument executed by the authority and one or more persons or entities that delineates collection, transportation, and recycling services, in whole or in part, that will be provided to the citizens of Washington state within service areas as described in the approved standard plan.

"Covered electronic product" or **"CEP"** includes any one of the following four types of products that has been used in Washington state by any covered entity, regardless of original point of purchase:

- (a) Any monitor having a viewable area greater than four inches when measured diagonally;
- (b) A desktop computer;
- (c) A laptop or a portable computer; or
- (d) Any video display device having a viewable area greater than four inches when measured diagonally.

"Covered electronic product" does not include:

- (a) A motor vehicle or replacement parts for use in motor vehicles or aircraft, or any computer, computer monitor, or television that is contained within, and is not separate from, the motor vehicle or aircraft;
- (b) Monitoring and control instruments or systems;
- (c) Medical devices;
- (d) Products including materials intended for use as ingredients in those products as defined in the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) or the Virus-Serum-Toxin Act of 1913 (21 U.S.C. Sec. 151 et seq.), and regulations issued under those acts;
- (e) Equipment used in the delivery of patient care in a health care setting;
- (f) A computer, computer monitor, or television that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; automatic teller machines, vending machines or similar business transaction machines; or
- (g) Hand-held portable voice or data devices used for commercial mobile services as defined in 47 U.S.C. Sec. 332 (d) (1).

"Covered entity" means any household, charity, school district, small business, or small government located in Washington state.

"Curbside service" means a collection service providing regularly scheduled pickup of covered electronic products from

households or other covered entities in quantities generated from households.

"Desktop" is a computer designed for nonportable use.

"Ecology" means the department of ecology.

"Electronic product" includes any monitor having a viewable area greater than four inches when measured diagonally; a desktop computer; a laptop or portable computer; or any video display device having a viewable area greater than four inches when measured diagonally.

"Equivalent share" means the weight in pounds of covered electronic products identified for an individual manufacturer as described in this chapter.

"Existing manufacturers" are those entities whose covered electronic products are offered for sale or sold in or into Washington state, through any sales method, as of the effective date of this chapter.

"Household" means a single detached dwelling unit or a single unit of a multiple dwelling unit and appurtenant structures.

"Independent plan" means a plan for the collection, transportation, and recycling of unwanted covered electronic products that is developed, implemented, and financed by an individual manufacturer or by an authorized party.

"Laptop" is a computer.

"Manufacturer" means the person who:

(a) Has legal ownership of the brand, brand-name or cobrand of electronic products sold in or into Washington state;

(b) Imports, or sells at retail, electronic products and meets (a) of this subsection; or

(c) Imports an electronic product branded by a manufacturer that has no physical presence in the United States of America.

(d) A retailer may elect to register, in lieu of the importer, as the manufacturer when the manufacturer does not have a physical presence in the United States.

"Manufacturers who have never sold CEPs" are those entities who have never sold or offered for sale covered electronic products in or into Washington state and whose brand names of covered electronic products are represented in the Washington state return share.

"Manufacturers who previously manufactured" are those entities that previously manufactured covered electronic products but no longer do so and whose brand names of CEPs are represented in the Washington state return share.

"Monitor" is a video display device without a tuner that can display pictures and sound and is used with a computer.

"New entrant" means:

(a) A manufacturer of televisions that have been sold in Washington state for less than ten consecutive years; or

(b) A manufacturer of desktop computers, laptop and portable computers, or computer monitors that have been sold in Washington state for less than five consecutive years;

(c) However, a manufacturer of both televisions and computers

or a manufacturer of both televisions and computer monitors that is deemed a new entrant under either only (a) or (b) of this subsection is not considered a new entrant for purposes of this chapter.

"New manufacturers to Washington state" are those entities whose covered electronic products are offered for sale or sold in or into Washington state for the first time after the effective date of this chapter. These manufacturers become existing manufacturers for all program years after participation the first year.

"Offering for sale" means providing electronic products for purchase, in or into Washington state, regardless of sales method.

"Orphan product" means a covered electronic product that lacks a manufacturer's brand or for which the manufacturer is no longer in business and has no successor in interest.

"Person" means any individual, business, manufacturer, transporter, collector, processor, retailer, charity, nonprofit organization, or government agency.

"Plan's equivalent share" means the weight in pounds of covered electronic products for which a plan is responsible. A plan's equivalent share is equal to the sum of the equivalent shares of each manufacturer participating in that plan.

"Plan's return share" means the sum of the return shares of each manufacturer participating in that plan.

"Portable computer" is a computer.

"Premium service" means services such as at-location system upgrade services provided to covered entities and at-home pickup services offered to households. **"Premium service"** does not include curbside service.

"Processor" means an entity engaged in disassembling, dismantling, or shredding electronic products to recover materials contained in the electronic products and prepare those materials for reclaiming or reuse in new products in accordance with processing standards established by this chapter and ecology. A processor may also salvage parts to be used in new products.

"Product type" means one of the following categories: Computer monitors; desktop computers; laptop and portable computers; and televisions.

"Program" means the collection, transportation, and recycling activities conducted to implement an independent plan or the standard plan.

"Program year" means each full calendar year after the program has been initiated.

"Recycling" means transforming or remanufacturing unwanted electronic products, components, and by-products into usable or marketable materials for use other than landfill disposal or incineration. **"Recycling"** does not include energy recovery or energy generation by means of combusting unwanted electronic products, components, and by-products with or without other waste. Smelting of electronic materials to recover metals for reuse in conformance with all applicable laws and regulations is not

considered disposal or energy recovery.

"Retailer" means a person who offers covered electronic products for sale at retail through any means including, but not limited to, remote offerings such as sales outlets, catalogs, or the internet, but does not include a sale that is either reused products or a wholesale transaction with a distributor or a retailer.

"Return share" means the percentage of covered electronic products by weight identified for an individual manufacturer, as determined by ecology.

"Reuse" means any operation by which an electronic product or a component of a covered electronic product changes ownership and is used for the same purpose for which it was originally purchased.

"Sell" or **"sold"** means an electronic product is purchased regardless of sales method.

"Small business" means a business employing less than fifty people.

"Small government" means a city in Washington state with a population less than fifty thousand, a county in Washington state with a population less than one hundred twenty-five thousand, and special purpose districts in Washington state.

"Standard plan" means the plan for the collection, transportation, and recycling of unwanted covered electronic products developed, implemented, and financed by the authority on behalf of manufacturers participating in the authority.

"Television" is an enclosed video display device with a tuner able to receive and output frequency waves or digital signals to display pictures and sounds.

"Transporter" means an entity that transports covered electronic products from collection sites or services to processors or other locations for the purpose of recycling, but does not include any entity or person that hauls their own unwanted electronic products.

"Unwanted electronic product" means a covered electronic product that has been discarded or is intended to be discarded by its owner.

"White box manufacturer" means a person who manufactured unbranded covered electronic products offered for sale in Washington state within ten consecutive years prior to a program year for televisions or within five consecutive years prior to a program year for desktop computers, laptop or portable computers, or computer monitors.

"Video display devices" include units capable of presenting images electronically on a screen, with a viewable area greater than four inches when measured diagonally, viewed by the user and may include cathode ray tubes, flat panel computer monitors, plasma displays, liquid crystal displays, rear and front enclosed projection devices, and other similar displays that exist or may be developed. Televisions and monitors are video display devices.

[]

NEW SECTION

WAC 173-900-040 Required brand labeling. (1) Beginning January 1, 2007, no person may sell or offer for sale an electronic product to any person in Washington state unless the electronic product is labeled with the manufacturer's brand.

(2) The label must be permanently affixed and readily visible.

(3) In-state retailers in possession of unlabeled, or white box, electronic products on January 1, 2007, may exhaust their stock through sales to the public.

[]

NEW SECTION

WAC 173-900-050 Offering for sale or selling covered electronic products (CEPs) in or into Washington. As of January 1, 2007, until December 31, 2008:

(1) In order for a manufacturer to offer for sale or sell a CEP in or into Washington state, the manufacturer's brand name must be on the "Manufacturer Registration List for the Electronic Product Recycling Program" posted on ecology's web site and the manufacturer must be in "pending" or "in compliance" status.

(2) In order for a retailer to offer for sale or sell a CEP in or into Washington state, on the date the product was ordered, the brand name must be on the "Manufacturer Registration List for the Electronic Product Recycling Program" posted on ecology's web site, and the manufacturer must be in "pending" or "in compliance" status.

[]

**PART II
MANUFACTURER REQUIREMENTS**

NEW SECTION

WAC 173-900-200 Manufacturer registration. Registration:

- (1) A manufacturer is registered under this chapter when:
- (a) Ecology has determined the manufacturer's registration form is complete and accurate; and
 - (b) The manufacturer has paid their required administrative fee.
- (2) Registration under this chapter is only for purposes of administering the electronic product recycling program, and does not constitute endorsement by ecology of a particular registrant.
- (3) **The following manufacturers must register with ecology:**

Type of Manufacturer		Initial Registration Due Date
Existing manufacturers	Those entities whose CEPs are offered for sale or sold in or into Washington state, as of the effective date of this chapter.	On or before January 1, 2007.
New manufacturers to Washington state	Those entities whose CEPs are offered for sale or sold in or into Washington state for the first time after the effective date of this chapter.	Prior to the offering for sale of their CEPs for sale in/into WA.

Type of Manufacturer		Initial Registration Due Date
Manufacturers who have never sold CEPs	Those entities who have never sold or offered for sale covered electronic products in or into Washington state and whose brand names of covered electronic products are represented in the Washington state return share.	Within sixty days of ecology sending notice that their brand names were found in the return share.
Manufacturers who previously manufactured	Those entities that previously manufactured CEPs but no longer do so and whose brand names of CEPs are represented in the Washington state return share.	Within sixty days of ecology sending notice that their brand names were found in the return share.

(4) **Manufacturer registration form:** The manufacturer must use the manufacturer registration form provided by ecology which must include all of the following:

(a) The name, contact, and billing information of the manufacturer;

(b) The manufacturer's brand names of CEPs, including:

(i) All brand names sold in Washington state in the past, including "years sold";

(ii) All brand names currently being sold in Washington state, including the year the manufacturer started using the brand name; and

(iii) All brand names the manufacturer manufactures but does not have legal ownership of the brand;

(c) When a word or phrase is used as the label the manufacturer must include that word or phrase and a general description of the ways in which it may appear on the manufacturer's electronic products;

(d) When a logo, mark, or image is used as a label, the manufacturer must include a graphic representation of the logo or image and a general description of the different ways in which it may appear on the manufacturer's electronic products;

(e) The method or methods of sale used in or into Washington

state;

(f) Recycling plan participation information; and

(g) Signature of the responsible individual. The registration form must be signed by the individual responsible for implementing the manufacturer's requirements under this chapter. The signature means the manufacturer has provided accurate and complete information on the form and reviewed their responsibilities under the electronic product recycling program.

(5) **Submitting the registration form:** The manufacturer must either submit the:

(a) Form via e-mail or internet service; or

(b) Original of the registration form to one of the following addresses:

For U.S. Postal Service:

Department of Ecology

Electronic Product Recycling

Solid Waste and Financial Assistance Program

P.O. Box 47600

Olympia, WA 98504-7600

Or

For Courier:

Department of Ecology

Electronic Product Recycling

Solid Waste and Financial Assistance Program

300 Desmond Drive

Lacey, WA 98503

(6) **Administrative fee:**

(a) All manufacturers must pay an annual administrative fee to ecology (see WAC 173-900-210 Administrative fee).

(b) Starting in 2007, ecology will send out billing statements by November 1 of each year to all registered manufacturers. The billing statement will include the amount of the administrative fee owed by the manufacturer.

(c) New manufacturers must send ecology the required administrative fee so that ecology receives the fee within sixty days of the date on the billing statement.

(7) **Submitting the administrative fee:**

(a) The manufacturer must send ecology the appropriate administrative fee so that ecology receives it no later than January 1 of each calendar year.

(b) The manufacturer must send payment to the following address:

Department of Ecology

Electronic Product Recycling Program

P.O. Box 5128

Lacey, WA 98509-5128

(8) **Registration review and status:** Within five business days of receiving a manufacturer registration form and the required administrative fee, ecology will post the manufacturer's name on a list called "Manufacturer Registration List for the Electronic

Product Recycling Program" on ecology's web site. This list will contain the names of manufacturers, their brand names and their registration status. Each manufacturer on the list will be assigned to one of the following registration status categories:

(a) **Pending** means ecology has received the appropriate manufacturer's administrative fee and is reviewing the manufacturer's registration form. The manufacturer's CEPs are allowed to be sold or offered for sale in or into Washington state while in "pending" status.

(i) If the form is complete and accurate, ecology will change the manufacturer's status from "pending" to "in compliance."

(ii) If the form is not complete and accurate, ecology will send notice, via certified mail, to the manufacturer identifying what corrections and additional information is needed, and requesting a revised form. The manufacturer will have thirty days from receipt of the notice to submit to ecology a revised registration form. If the form is corrected and the required additional information is submitted, ecology will change the manufacturer's status from "pending" to "in compliance."

(iii) If the form is not corrected, or the required additional information is not submitted, within thirty days, ecology will change the manufacturer's status from "pending" to "in violation."

(b) **Registered** or "in compliance" means ecology has reviewed the manufacturer registration form and determined the form is complete and accurate and the manufacturer has paid the required administrative fee. The manufacturer's CEPs are allowed to be sold or offered for sale in or into Washington state.

(c) **In violation** means the manufacturer is in violation of this chapter.

(9) **Annual registration:** Manufacturers must submit their annual registration renewal form and required administrative fee to ecology no later than January 1 of each calendar year.

(10) **Registration updates:** A manufacturer must submit any changes to the information provided in the registration form to ecology within fourteen days of such change.

(11) **Registration violation:** As of January 1, 2007, it is a manufacturer violation if either a manufacturer or retailer offers for sale or sells the manufacturer's CEPs in or into Washington state and the manufacturer is not registered as required above. When a manufacturer registration violation occurs:

(a) Ecology will assign the manufacturer to the "in violation" category on the "Manufacturer Registration List for the Electronic Product Recycling Program";

(b) The manufacturer's CEPs cannot be sold or offered for sale in Washington state; and

(c) The manufacturer is subject to penalties under WAC 173-900-600.

(12) **Corrective actions:**

(a) If a manufacturer is in "in violation" status, ecology will not return them to "pending" status while the manufacturer corrects the violations.

(b) If ecology changes a manufacturer to "in violation" as a

result of a violation, then in order to once again be listed as "in compliance" on the "Manufacturer Registration List for the Electronic Product Recycling Program," the manufacturer must:

(i) Submit their registration form and ecology must determine the form is complete and accurate;

(ii) Pay their appropriate administrative fee;

(iii) Correct any other violations; and

(iv) Pay or settle any penalties due to ecology (WAC 173-900-600).

(13) **Notification to retailers:** A manufacturer may notify retailers, in writing, if the manufacturer's CEPs cannot be offered for sale or sold in or into Washington state. A copy of this notice must be supplied to ecology to avoid the registration violation.

[]

NEW SECTION

WAC 173-900-210 Administrative fee. (1) **Legislative mandate.** The administrative fee covers ecology's administrative costs related to implementing the electronic product recycling program authorized under chapter 70.95N RCW. It does not include the fees for ecology's review of the standard plan or independent plans.

(2) **Data.**

(a) Ecology will use data collected to extrapolate Washington market shares, and to calculate manufacturer unit sales. Ecology will use market share and/or CEP unit sales to assign each manufacturer to an administrative fee tier. Ecology may use any of, or a combination of, the following data:

(i) Generally available market research data;

(ii) CEP unit data supplied by manufacturers about brands they manufacture or sell; or

(iii) CEP unit data supplied by retailers about brands they sell.

(b) Ecology may put the data directly into the data base. Ecology will aggregate the data in sets of at least three companies for confidentiality when published.

(3) **Distribution:**

(a) Ecology will establish a fee schedule to distribute administrative fees on a sliding scale, based on tiers, that are representative of annual sales of CEPs in Washington state.

(b) Fees will be distributed to each tier in order to spread

costs based on the estimated unit sales given the number of manufacturers and the amount of revenue that needs to be generated to cover ecology's administrative costs.

(c) Tier 7 will have no fee amount associated with it, but the manufacturers assigned to this tier must still complete the registration form (see WAC 173-900-200).

Tiers	Manufacturer's Market Share
Tier 1	5% or greater
Tier 2	1% to < 5%
Tier 3	0.1% to < 1%
Tier 4	0.03% to < 0.1%
Tier 5	0.01% to < 0.03%
Tier 6	0% but < 0.01%
Tier 7	Manufacturers who previously manufactured

(4) **Calculating the administrative fee:** Ecology will calculate the tiers based on the combined unit sales of CEPs sold under manufacturer brands as a percentage of the total sales of electronic products sold in or into Washington state.

(a) **Administrative fee tier calculations for program year 2007:** For administrative fees due January 1, 2007, ecology will base fees on the amount appropriated in the budget for the electronic product recycling program by the legislature. Year one includes start-up costs and funds the first eighteen months of operations. This amount is four hundred seventy-five thousand dollars.

(b) **Administrative fee tier calculations for program year 2008 and future years:**

(i) For administrative fees due January 1, 2008, and thereafter, ecology will base the fee on the expenditure authority for the electronic product recycling program which for program year 2008 is two hundred twenty-one thousand five hundred dollars.

(ii) The total administrative fee amount will be adjusted biannually by the FGF as calculated under chapter 43.135 RCW (Fee_{FGF}).

(5) **Tier placement:**

(a) **Existing manufacturers:** Ecology will place existing manufacturers in the appropriate tier based on data obtained or received by ecology. If ecology has no data, ecology will place the manufacturer in Tier 4.

(b) **New manufacturers to Washington state:** Ecology will assign these manufacturers to Tier 6 for their initial program year. Ecology will assign these manufacturers to Tier 4 for the second and future program years unless ecology has CEP unit data.

(c) **Manufacturers who have never sold CEPs:** Ecology will assign these manufacturers to Tier 6.

(d) **Manufacturers who previously manufactured:** Ecology will assign these manufacturers to Tier 7.

(6) **Publication of tier assignment:**

(a) **Tiers for fees due January 1, 2007:** Ecology will publish the final tier schedule on ecology's web site by November 15, 2006, for fees due January 1, 2007. The tiers will be based on data available to ecology and received from manufacturers and retailers prior to November 9, 2006. When providing data to ecology, manufacturers must meet the requirements of subsection (7)(a) of this section prior to November 9, 2006.

(b) **Tiers for fees due January 1, 2008, and future years:** For administrative fees for 2008, and future years, ecology will publish a preliminary tier schedule for review and a final tier schedule.

(i) **Preliminary tier schedule:** Ecology will publish the preliminary tier schedule on ecology's web site by September 1 of each calendar year.

(A) This preliminary tier schedule will include the tiers and a list of manufacturers assigned to each tier.

(B) Ecology will also publish the estimated total percentage share of the market attributable to each tier and a list of the brand names for each manufacturer, which form the basis for the estimates used in the tier assignment.

(C) Manufacturers will have until October 1 to submit a request for tier reassignment if they believe they are assigned to the wrong tier. (See subsection (7)(b) of this section.)

(ii) **Final tier schedule:** Ecology will publish the agency's final decision on the final tier schedule on ecology's web site by November 1 of each calendar year. This final tier schedule will reflect ecology's evaluation of all available data including but not limited to tier reassignment requests.

(7) **Tier reassignment requests:**

(a) **Requests for tier reassignment submitted for fees due January 1, 2007.** Manufacturers may request to be assigned to a different tier for fees due January 1, 2007.

(i) To submit a request for tier reassignment the manufacturer must, on or before November 9, 2006, do one of the following:

(A) Submit or update their on-line manufacturer registration form. The manufacturer must provide the number of units of CEPs, sold in the prior year, in or into Washington state;

(B) Send a written letter to ecology including the number of units of CEPs sold in the prior year in or into Washington state; or

(C) Submit a complete tier request form available on ecology's web site.

(ii) If CEP unit sales data is provided, ecology will exempt this data from public disclosure in accordance with RCW 42.56.270(13).

(iii) In addition to submitting information about CEP unit sales as described above, ecology may request that the manufacturer submit the CEP unit sales data in writing certified by a certified public accountant. Ecology may request this if ecology finds the data gives a different market share than the national data collected and/or the information changes the tier assignment

distribution.

(b) **Requests for tier reassignment for fees due after January 1, 2007.** If submitting a tier reassignment request:

(i) **Existing manufacturers** must submit the request on or before October 1 prior to the next billing cycle and must follow the steps in (c) of this subsection.

(ii) **New manufacturers** may not submit a tier reassignment request for their first program year. Requests for tier reassignment for future program years must follow the process for existing manufacturers.

(iii) **Manufacturers who have never sold CEPs** may request to be assigned to a different tier at any time and must follow the steps in (c) of this subsection.

(iv) **Manufacturers who previously manufactured** may request to be assigned to a different tier at any time and must follow the steps in (c) of this subsection.

(c) **Submitting the request:** To request tier reassignment, the manufacturer must do one of the following:

(i) Submit or update their on-line manufacturer registration form. The manufacturer must provide the number of units of CEPs, sold in the prior calendar year, in or into Washington state; or

(ii) Send a written letter to ecology including the number of units of CEPs, sold in the prior calendar year, in or into Washington state.

(iii) If CEP unit sales data is provided, ecology will exempt this data from public disclosure in accordance with RCW 42.56.270(13).

(iv) In addition to submitting information about CEP unit sales as described above, ecology may request that the manufacturer submit the CEP unit sales data in writing certified by a certified public accountant. Ecology may request this if ecology finds the data gives a different market share than the national data collected and/or the information changes the tier assignment distribution.

[]

**PART III
TRANSPORTERS AND COLLECTORS**

NEW SECTION

WAC 173-900-300 Transporter and/or collector registration.

(1) As of September 1, 2007, all transporters and collectors must be registered with ecology in order to transport or collect CEPs.

(2) To confirm the registration status of a transporter and/or collector, a person must check the "Transporter/Collector Registration List for the Electronic Product Recycling Program" displayed on ecology's web site.

(3) Registration under this chapter is only for purposes of administering the electronic product recycling program, and does not constitute endorsement by ecology of a particular registrant.

(4) **Transporter and/or collector registration:** Each transporter and/or collector must submit an annual registration form to ecology.

(a) **Existing transporters and/or collectors:** Transporters and/or collectors who transport or collect CEPs in Washington state on the effective date of this chapter and who plan to continue doing so, must register with ecology no later than September 1, 2007.

(b) **New transporter and/or collector registration:** Transporters and/or collectors who begin to transport or collect CEPs in Washington state after September 1, 2007, may submit their registration form to ecology at any time prior to beginning to transport or collect CEPs.

(5) **Transporter and/or collector annual registration:** Transporters and/or collectors must submit their annual renewal registration form to ecology between June 1 and September 1 of each calendar year.

(6) **Registration updates:** A transporter and/or collector must submit any changes to the information provided in the registration form to ecology within fourteen days of such change.

(7) **Transporter and/or collector registration form:** Each transporter and/or collector must use the registration form provided by ecology and must include all of the following:

- (a) Contact and location information;
- (b) Business license information;
- (c) Permit information;
- (d) Description of services provided;
- (e) Geographic areas where services are provided; and
- (f) Signature of responsible individual.

The registration form must be signed by the individual responsible for implementing the requirements under this chapter for the transporter and/or collector. Signing the form means the company has provided accurate and complete information on the form.

(8) **Submitting the transporter and/or collector registration form:** The transporter and/or collector must either submit the:

- (a) Form via e-mail or internet service; or
- (b) Original of the registration form to one of the following addresses:

For U.S. Postal Service:
Department of Ecology
Electronic Product Recycling
Solid Waste and Financial Assistance Program
P.O. Box 47600
Olympia, WA 98504-7600

Or

For Courier:
Department of Ecology
Electronic Product Recycling
Solid Waste and Financial Assistance Program
300 Desmond Drive
Lacey, WA 98503

(9) **Registration review and status:** After receiving a registration form, ecology will post the transporter's and/or collector's name on a list called "Transporter/Collector Registration List for the Electronic Product Recycling Program" on ecology's web site. This list will contain the names of transporters and collectors and their registration status. Each transporter/collector on the list will be assigned to a registration status category:

(a) **Pending** means ecology is reviewing the transporter's and/or collector's registration form. The transporter and/or collector is allowed to transport or collect CEPs in Washington state while in "pending" status.

(i) If ecology determines the registration form is complete and accurate, ecology will change the transporter's/collector's status from "pending" to "in compliance."

(ii) If ecology determines the form is not complete or accurate or additional information is needed, ecology will send notice, via certified mail, to the transporter and/or collector identifying what corrections and additional information is needed, and request a revised form. The transporter and/or collector will have thirty days from receipt of the notice to submit to ecology a revised registration form.

(iii) If the corrections are not made, or additional information is not provided within thirty days, ecology will change the transporter and/or collector's status from "pending" to "in violation."

(b) **Registered** or "in compliance" means ecology determined the registration form was complete and accurate. The transporter and/or collector is allowed to transport or collect CEPs in Washington state while in "in compliance" status.

(c) **In violation** means the transporter and/or collector is in violation of this chapter (see WAC 173-900-630 and 173-900-620). The transporter and/or collector must not transport or collect CEPs in Washington state while in the "in violation" category.

(10) **Registration violation:** If a transporter and/or

collector does not submit their registration form as required above:

(a) Ecology will assign the transporter and/or collector to the "in violation" category on the "Transporter/Collector Registration List for the Electronic Product Recycling Program";

(b) A transporter must not transport CEPs in Washington state;

(c) A collector must not collect CEPs in Washington state;

(d) The transporter is subject to penalties under WAC 173-900-630; and

(e) The collector is subject to penalties under WAC 173-900-620.

(11) **Corrective action:** In order for ecology to change a transporter and/or collector from the "in violation" status to "in compliance" status on the "Transporter/Collector Registration List for the Electronic Product Recycling Program" the transporter and/or collector must:

(a) Submit their registration form and ecology must determine the form is complete and accurate; and

(b) Pay or settle any penalties to ecology.

[]

PART IV WARNING, VIOLATIONS, AND PENALTIES

NEW SECTION

WAC 173-900-600 Manufacturer--Warning, violations, and penalties. (1) As of January 1, 2007, all manufacturers of CEPs must register with ecology in order to offer for sale or sell, or have a retailer offer for sale or sell, their products in or into Washington state.

(2) Ecology will place a manufacturer in "in violation" status if a violation, as described in this chapter, is committed by the manufacturer.

(3) **Types of violations:**

(a) **Registration violation:** As of January 1, 2007:

(i) It is a manufacturer violation if a manufacturer offers for sale or sells CEPs in or into Washington state and is not

registered under this chapter.

(ii) It is also a manufacturer violation if, on the date the products are ordered from the manufacturer or their agent, the manufacturer was not in "in compliance" or "pending" status and the retailer offers for sale or sells those CEPs.

Notification to retailers: A manufacturer may notify, in writing, retailers if the manufacturer's CEPs cannot be offered for sale or sold in or into Washington state. A copy of this notice must be supplied to ecology to avoid the registration violation.

(iii) When the violation consists of the sale or offering for sale of a CEP, manufactured by an unregistered manufacturer, each unit offered for sale or sold is a separate violation for the manufacturer.

(b) **Unlabeled electronic products violations:** As of January 1, 2007, it is a manufacturer violation if a manufacturer, or a retailer, offers for sale or sells the manufacturer's electronic product in or into Washington state that is not labeled with the manufacturer's brand name. Each of the manufacturer's unlabeled units offered for sale or sold is a separate violation for the manufacturer.

(4) **Warnings and penalties:**

(a) Notice of violation: Ecology will issue a written warning, via certified mail, for the first violation of subsection (3) of this section. The written warning will include a copy of the requirements to let the manufacturer know what is needed for them to be in compliance.

(b) If the compliance requirements in the written warning are not met within thirty days of receipt of the warning, ecology will assess a penalty starting on the date of receipt of the written warning:

(i) Of up to one thousand dollars for the first violation; and

(ii) Of up to two thousand dollars for the second and each subsequent violation.

(iii) Ecology will issue a penalty no more often than every thirty days for the same violation.

(c) Ecology will deposit all penalties levied under this section into the electronic products recycling account created under RCW 70.95N.130.

[]

NEW SECTION

WAC 173-900-610 Retailer--Warning, violations, and penalties.

(1) Types of violations:

(a) **Registration violation:** As of January 1, 2007, it is a retailer violation if a retailer "offers for sale" or "sells" CEPs if, at the time the products are ordered from the manufacturer or their agent, the manufacturer was not in "in compliance" or "pending" status.

(i) When the violation consists of the sale or offering for sale of a CEP, manufactured by an unregistered manufacturer, or a manufacturer in "in violation" status, each unit offered for sale or sold is a separate violation for the retailer.

(ii) If the retailer can prove that the products were ordered from the manufacturer or their agent prior to January 1, 2007, the offering for sale, or selling, of those products is not a violation even if the manufacturer fails to register.

(b) **Unlabeled electronic products violations:** As of January 1, 2007, a retailer must not "offer for sale" or "sell" an electronic product in or into Washington state that is not labeled with the manufacturer's brand name.

(i) Each unlabeled unit offered for sale or sold is a separate violation for the retailer.

(ii) If the retailer can demonstrate to ecology that the retailer was in possession of the unlabeled electronic products prior to January 1, 2007, the "offering for sale" or "sale" of these electronic products is not a violation.

(2) Warning and penalties:

(a) **Notice of violation:** Ecology will issue a written warning, via certified mail, to the retailer for the first violation for either subsection (1)(a) or (b) of this section. The written warning will include a copy of the requirements to let the retailer know what is needed for them to be in compliance.

(b) If the compliance requirements in the written warning are not met within thirty days of receipt of the warning, ecology will assess a penalty starting on the date of receipt of the written warning:

(i) Of up to one thousand dollars for the first violation; and

(ii) Of up to two thousand dollars for the second and each subsequent violation.

(iii) Ecology will issue a penalty no more often than every thirty days for each violation.

(c) Ecology will deposit all penalties levied under this section into the electronic products recycling account created under RCW 70.95N.130.

[]

NEW SECTION

WAC 173-900-620 Collector--Warning, violations, and penalties. (1) Ecology will place a collector in "in violation" status on the "Transporter/Collector Registration List for the Electronic Product Recycling Program" on ecology's web site if a violation is committed by the collector. For a collector, "in violation" status means the collector must not collect CEPs in Washington state and violations are subject to the warning and penalties in subsection (3) of this section.

(2) **Collection of CEPs without being registered with ecology violation:** As of September 1, 2007, it is a violation for collectors to collect CEPs in Washington state if the collector is not registered with ecology.

(3) **Collector warning and penalties:**

(a) Notice of violation: Ecology will issue a written warning, via certified mail, to the collector for the first violation of this section. The written warning will include a copy of the requirements to let the collector know what is needed for them to be in compliance.

(b) If the compliance requirements in the written warning are not met within thirty days of receipt of the warning, ecology will assess a penalty starting on the date of receipt of the written warning:

(i) Of up to one thousand dollars for the first violation; and

(ii) Of up to two thousand dollars for the second and each subsequent violation.

(iii) Ecology will issue a penalty no more often than every thirty days for each violation.

(c) Ecology will deposit all penalties levied under this section into the electronic products recycling account created under RCW 70.95N.130.

[]

NEW SECTION

WAC 173-900-630 Transporter--Warning, violations, and

penalties. (1) Ecology will place a transporter in "in violation" status on the "Transporter/Collector Registration List for the Electronic Product Recycling Program" on ecology's web site if a violation is committed by the transporter.

For a transporter, "in violation" status means the transporter must not transport CEPs in Washington state and violations are subject to the warning and penalties in subsection (3) of this section.

(2) **Transportation of CEPs without being registered with ecology violation:** As of September 1, 2007, it is a violation for transporters to transport CEPs in Washington state if the transporter is not registered with ecology.

(3) **Transporter warning and penalties:**

(a) Notice of violation: Ecology will issue a written warning, via certified mail, to the transporter for the first violation of this section. The written warning will include a copy of the requirements to let the transporter know what is needed for them to be in compliance.

(b) If the compliance requirements in the written warning are not met within thirty days of receipt of the warning, ecology will assess a penalty starting on the date of receipt of the written warning:

(i) Of up to one thousand dollars for the first violation; and

(ii) Of up to two thousand dollars for the second and each subsequent violation.

(iii) Ecology will issue a penalty no more often than every thirty days for each violation.

(c) Ecology will deposit all penalties levied under this section into the electronic products recycling account created under RCW 70.95N.130.

[]